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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,487	08/27/2003	Jonathan J. Oliver	PA3628US	6147
22830	7590	08/24/2006	EXAMINER	
CARR & FERRELL LLP 2200 GENG ROAD PALO ALTO, CA 94303			NGUYEN, MINH DIEU T	
			ART UNIT	PAPER NUMBER
			2137	

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/650,487	OLIVER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Minh Dieu Nguyen	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 August 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-31 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-31 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 27 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/11/05</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

1. This office action is in response to the communication dated August 27, 2003.  
Claims 1-31 are pending.

***Information Disclosure Statement***

2. The information disclosure statement filed March 11, 2005 has been placed in the application file and the information referred to therein has been considered as to the merits.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 3-4 and 21-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. The term "reliable" in claim 3, 21-26 and "at least as reliable as" in claim 4 are relative terms which render the claims indefinite. The term "reliable" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1, 20, 28-29 and 30-31 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention does not provide a practical application that produces a useful, tangible and concrete result. Therefore claims 1, 20, 28-29 and 30-31 are deemed non-statutory.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-4, 8, 10, 12-13, 16-26 and 28-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Bandini et al. (2002/0199095).

a) As to claim 1, 28 and 30, Bandini meets the claimed limitation as follows:

"A method for improving a statistical message classifier, comprising: testing a message with a machine classifier, wherein the machine classifier is capable of making a classification on the message; in the event the message is classifiable by the machine

classifier, updating the statistical message classifier according to the classification made by the machine classifier" see paragraphs 0019, 0021 (The e-mail relay is used to filter email and update the SPAM database).

b) As to claim 2, Bandini meets the claimed limitation as follows:

"A method for improving message classifier as recited in claim 1, wherein the machine classifier is further capable of making no classification on the message" see paragraph 0038 (When the message is not identified as SPAM, it is delivered).

c) As to claims 3, Bandini meets the claimed limitation as follows:

"A method for improving message classifier as recited in claim 1, wherein the machine classifier is a reliable classifier" see paragraph 0011.

d) As to claim 4, Bandini meets the claimed limitation as follows:

"A method for improving message classifier as recited in claim 1, wherein the machine classifier is at least as reliable as the statistical message classifier" see paragraph 0020.

e) As to claim 8, Bandini meets the claimed limitation as follows:

"A method for improving message classifier as recited in claim 1, wherein the machine classifier includes a probe account" see paragraph 0028.

f) As to claim 10, Bandini meets the claimed limitation as follows:

"A method for improving message classifier as recited in claim 1, wherein updating the statistical message classifier comprises updating a knowledge base used to train the statistical message classifier" see Fig. 4.

g) As to claim 12, Bandini meets the claimed limitation as follows:

"A method for improving message classifier as recited in claim 1, wherein updating the statistical message classifier comprises parsing the message to obtain a feature" see paragraph 0026.

h) As to claim 13, Bandini meets the claimed limitation as follows:

"A method for improving message classifier as recited in claim 1, wherein updating the statistical message classifier comprises parsing the message to obtain a feature and updating a counter corresponding to the feature" see paragraph 0039.

i) As to claim 16, Bandini meets the claimed limitation as follows:

"A method for improving message classifier as recited in claim 1, wherein updating the statistical message classifier comprises parsing the message to obtain a feature and computing a score associated with the feature" see paragraph 0033.

j) As to claim 17, Bandini meets the claimed limitation as follows:

"A method for improving message classifier as recited in claim 1, wherein the message is a previously stored message" see Fig. 1, element 38.

k) As to claim 18, Bandini meets the claimed limitation as follows:

"A method for improving message classifier as recited in claim 1, wherein the message is an incoming message" see Abstract.

l) As to claim 19, Bandini meets the claimed limitation as follows:

"A method for improving message classifier as recited in claim 1, in the event that the message is not classifiable by the classifier, further comprising testing the message with another machine classifier" see paragraph 0021.

m) As to claims 20, 29 and 31, Bandini meets the claimed limitation as follows: "A method for improving a statistical message classifier, comprising: testing a message with a first classifier wherein the first classifier is capable of making a first classification; in the event that the message is classifiable by the first classifier, updating the statistical message classifier according to the first classification; in the event that the message is not classifiable by the first classifier, testing the message with a second classifier, wherein the second classifier is capable of making a second classification; in the event that the message is classifiable by the second classifier, updating the statistical message classifier according to the second classification" see paragraphs 0019, 0021 (The e-mail relay is used to filter email, email with score below the borderline level is a clean indication, those are not classified in the clean category are further tested for spam indication or other indication and update the database).

n) As to claims 21-26, Bandini meets the claimed limitation as follows:  
"A method for improving message classifier as recited in claim 20, wherein the first classifier is a reliable, reliable good classifier, reliable junk classifier and wherein the second classifier is a reliable, reliable good classifier, reliable junk classifier" see paragraph 0011.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 5-6, 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bandini et al. (2002/0199095) in view of Kirsch (2004/0177120).

a) As to claim 5, Bandini does not specifically disclose the machine classifier includes a whitelist classifier. Kirsch is relied on for the teaching of the machine classifier includes a whitelist classifier (paragraph 0013). It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of having machine classifier includes a whitelist classifier in the system of Bandini as Kirsch teaches so as to effectively identify unwanted messages.

b) As to claim 6, Kirsch discloses the machine classifier includes a collaborative fingerprinting classifier (paragraph 0005).

c) As to claim 11, Kirsch discloses wherein updating the statistical message classifier comprises updating a statistical model used by the statistical message classifier (paragraph 0013).

d) As to claim 15, Kirsch discloses wherein updating the statistical message classifier comprises parsing the message to obtain a feature and computing a spam probability associated with the feature (paragraph 0005).

12. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bandini et al. (2002/0199095) in view of Starbuck et al. (2004/0260776).

a) As to claim 7, Bandini does not specifically disclose the machine classifier includes an image analyzer. Starbuck is relied on for the teaching of the machine classifier includes an image analyzer (paragraph 0083). It would have been obvious to

one of ordinary skill in the art at the time of the invention to employ the use of having machine classifier includes an image analyzer in the system of Bandini as Starbuck teaches so as to effectively identify unwanted messages with images.

b) As to claim 14, Starbuck discloses wherein updating the statistical message classifier comprises parsing the message to obtain a feature and updating a training set (paragraph 0015).

13. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bandini et al. (2002/0199095) in view of Schneider et al. (6,785,728).

Bandini does not specifically disclose the machine classifier includes a challenge-response classifier. Schneider is relied on for the teaching of the machine classifier includes a challenge-response classifier (col. 19, lines 26-31). It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of the machine classifier includes a challenge-response classifier in the system of Bandini as Schneider teaches so as to effectively identify the user/sender.

14. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bandini et al. (2002/0199095) in view of Horvitz et al. (6,161,130).

Bandini does not specifically disclose the first classifier is a user-augmented classifier. Horvitz is relied on for the teaching of the first classifier is a user-augmented classifier (col. 9, lines 9-17). It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of the first classifier is a user-augmented

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classifier in the system of Bandini as Horvitz teaches so as to allow user making ultimate decision.

***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Dieu Nguyen whose telephone number is 571-272-3873.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*mdn*  
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8/17/06

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